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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,766	08/06/2003	Vincent Muniere	Q76546	6869

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EXAMINER
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AFSHAR, KAMRAN

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/634,766

Applicant(s)

MUNIERE, VINCENT

Examiner */s/*

Kamran Afshar, 571-272-7796

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 02/24/2006 have been fully considered but they are not persuasive.

To Aid the Applicant:

Applicant argues that Molno does not teach a specific resource allocation and sending a specific resource request. As previously explained, Applicant is respectfully directed to the specific that user dedicated control channels are allocated on an available radio channel resource for control signalling in packet data transfer mode in a packet communication system. More particularly, resources are allocated in the uplink direction from a mobile station to a base station such that a mobile station inherently send control information (i.e. Coding schemes, modulation schemes, specific / different bit rate, EGPRS mode or GPRS mode, etc.), e.g., measurement reports, to the base station in a data communication session. Additionally, resources are allocated in the downlink direction from a base station to a mobile station such that a base station may send control information, e.g., system specific information, to the mobile in a data communication session (See Molno e.g. Pages 1-2, ¶ [0014]) to support control signaling during packet data transfer mode in an GPRS/EGPRS system ongoing data flow. In circuit switched GSM, additional transmission resources are defined for a Slow Associated Control Channel, (SACCH), such that transmission of control information associated with a traffic channel (TCH) (See e.g. Molno Page 1, ¶ [0012]). Therefore, the specific resource allocations are inherently based on for example a different packet

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or circuit switch mode, specific modulation or coding schemes higher or lower data rate, that are suitable for GPRS / EGPRS mode (See Molno e.g. Page 1, ¶ [0004]-[000]). Further, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not clearly show how the amendments avoid such references or rejections. Further more, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. a specific resource allocation and sending a specific resource request such as **GPRS request or EGPRS request**) are not recited in independent rejected claims 1-2, 14-17 (See e.g. Page 6, Line 15, Page 7, Lines 16-19 & Entire page 4 of Specification). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Therefore, the previous rejection is maintained per following. Also, in response to applicant's argument that the intended problem solved by the present application is different from the problem solved by the prior art (i.e. Molno), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14-15 recite word(s) " being capable of " renders the claim(s) indefinite because the claim(s) 1, 14-15 are not clear as to what are positively claimed.

5. Claims 3-13 are rejected as they are directly and or indirectly depended on rejected claim(s).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-7, 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Molno (U.S. Pub. No.: 2001/0030949 A1).

With respect to claims 1-2, 14-17, Molno discloses means, a mobile station, mobile radio network equipment, mobile radio system and / or a method of allocating packet mode resources in a mobile radio system (See e.g. EDGE packet data transfer channel, transfer mode, cellular communication system, etc. Pages 1-2, ¶ [0014]) a mobile station inherently sending (See e.g. 41-49 of Fig. 7) different types of packet mode resource requests the mobile station, in accordance with its requirements, one of different types of packet mode resource requests corresponding to different transfer modes (See e.g. GPRS / EGPRS, bit data rate, coding schemes, modulation schemes, bandwidth, circuit switch mode, packet switch mode, different bit rate, high bit rate, delay sensitive, etc., Page 1, ¶ [0004]-[0005]) that it inherently supports (See e.g. Pages 1-2, ¶ [0014])), a mobile station inherently being able to use one or the other of request types (See e.g. See e.g. bit data rate, coding, modulation, bandwidth, circuit switch mode, packet switch mode, etc. Page 1, ¶ [0005]-[0006]) corresponding to transfer modes that it supports, in accordance with its requirements, of signaling data transfer in the uplink direction (See e.g. Pages 12-2, ¶ [0014]), the signaling inherently being liable to generate an allocation of packet mode resources (See e.g. PSACCH, PTCCH, Page 2, ¶ [0015]) in the downlink direction for user data transfer (See e.g. signaling, signal, Page 1, ¶ [0001]), ¶ [0011], Page 2, ¶ [0014]), the mobile station inherently uses a type of packet mode resource request corresponding to a transfer mode best suited to the requirements of the user data

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transfer (See e.g. Page 2, ¶ [0014]) and / or including a cause specifying signaling data transfer requirements (See e.g. delay sensitive, Page 2, ¶ [0015]).

Regarding claims 3, 18, 29, inherently Molno discloses different transfer modes supported correspond to different bit rates available (See e.g. high data rates, Page 1, ¶ [0005], data rate over 384 kbps, Page 1, ¶ [0006]).

Regarding claims 4, 19, 30, inherently Molno discloses different bit rates available correspond to different modulation schemes available (See e.g. GMSK modulation, 8PSK modulation, Page 1, ¶ [0005]).

Regarding claims 5, 20, 31, inherently Molno discloses different transfer modes include a General Packet Radio Service (GPRS) mode and an Enhanced General Packet Radio Service (EGPRS) mode (See e.g. Page 1, ¶ [0008]).

Regarding claims 6, 21, 32, inherently Molno discloses one transfer mode best suited to the requirements of user data transfer corresponds to a transfer mode authorizing the highest bit rate (See e.g. high data rates, Page 1, ¶ [0005], data rate over 384 kbps, Page 1, ¶ [0006]).

Regarding claims 7, 22, 33, inherently Molno discloses one transfer mode best suited to the requirements of user data transfer corresponds to the Enhanced General Packet Radio Service (EGPRS) mode (See e.g. page 1, ¶ [0008]).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-13, 23-28, 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molno (U.S. Pub. No.: 2001/0030949 A1) in view of Hautamaki (U.S. Pub. No.: 2001/0038614 A1), further in view of Ramjee (U.S. Patent 6,842,462 B1).

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Regarding claims 8, 23, 34, Molno discloses everything as discussed above in rejected claim 1. However, Molno does not explicitly disclose requirements for transfer of signaling messages in accordance with a mobility management protocol. In an analogous field of endeavor, Hautamaki discloses allocation of resources and /or channels (page 4, ¶ [0028, Lines 15-19) and signaling data transfer (See e.g. signaling diagram of Figs. 2-4), signaling messages in accordance with a mobility management protocol (See e.g. 104 of Fig. 1). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to provide above teaching of Hautamaki to Molno to signaling data transfer requirements include requirements for transfer of signaling messages in accordance with a mobility management protocol. The motivation comes from Ramjee, so that the mobility management protocol is performed (See e.g. Co. 3, Line 67) to supports registration, authentication, paging, and handoff, a/k/a cell reselection, as well as procedures for channel access to transmit data packets etc. (See e.g. Co. 5, Lines 56-58).

Regarding claims 9, 24, 35, Ramjee discloses signaling messages (See e.g. Co. 7, Line 35, Co. 7, Lines 65-67) include a cell update message sent in the event of cell reselection during a current user data transfer (See e.g. Co. 8, Lines 56-63).

Regarding claims 10, 25, 36, Hautamaki discloses include a paging response message in packet mode prior to a transfer of user data in the downlink direction (See e.g. Page 3, ¶ [0016], 306 of Fig. 3a-3b).

Regarding claims 11, 26, 37, Hautamaki discloses user data transfer includes a transfer of data in accordance with the Transmission Control Protocol (TCP) (See e.g. (TCP) Page 1, ¶ [0006]).

Regarding claims 12, 27, 38, Hautamaki discloses a message used to transmit a type of packet mode resource request that corresponds to a transfer mode best suited to the requirements of a user data transfer is the EGPRS PACKET CHANNEL REQUEST message (See e.g. 307 of Figs. 3a, 3c, 3d, and Page 4, ¶ [0032]).

Regarding claims 13, 28, 39 Hautamaki discloses message includes a cause specifying signaling data transfer requirements (See e.g. Different qualities of service specify different delays for the transfer

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of packets between different ends of the connection, different bit rates, and the number of packets rejected may be different in connections with different qualities of service, Page 1, ¶ [0005]).

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


a) Bleckert (U.S. Pub. No.: 2002/0061756 A1).

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Eng, George can be reached @ (571) 272-3984. The fax number for the organization where this application or proceeding is assigned is 571-273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kamran Afshar

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER